

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CONTRARIAN CAPITAL MANAGEMENT,
L.L.C., CONTRARIAN CAPITAL FUND I,
L.P., CONTRARIAN DOME DU GOUTER
MASTER FUND, LP, CONTRARIAN
CAPITAL SENIOR SECURED, L.P.,
CONTRARIAN EM II, LP, CONTRARIAN
EMERGING MARKETS, L.P., BOSTON
PATRIOT SUMMER ST LLC, POLONIUS
HOLDINGS, LLC, E1 SP, A SEGREGATED
ACCOUNT OF EMAP SPC, EMMA 1
MASTER FUND, L.P., and CONTRARIAN
FUNDS, L.L.C.,

Plaintiffs,

v.

BOLIVARIAN REPUBLIC OF VENEZUELA,

Defendant.

Case No. 19 Civ. 11018 [rel. Nos. 19
Civ. 3123 & 18 Civ. 11940]

Hon. Analisa Torres

**CORRECTED
FIRST AMENDED COMPLAINT**

Plaintiffs Contrarian Capital Management, L.L.C., Contrarian Capital Fund I, L.P., Contrarian Dome du Gouter Master Fund, LP, Contrarian Capital Senior Secured, L.P., Contrarian EM II, LP, Contrarian Emerging Markets, L.P., Boston Patriot Summer St LLC, Polonius Holdings, LLC, E1 SP, a Segregated Account of EMAP SPC, Emma 1 Master Fund, L.P., and Contrarian Funds, L.L.C., for their Corrected First Amended Complaint against The Bolivarian Republic of Venezuela (“Venezuela”), allege as follows:

NATURE OF THE ACTION

1. This is a breach of contract action arising out of Venezuela’s failure to pay principal and interest on nine series of bonds (the “Bonds”) of which the plaintiffs beneficially

hold obligations with a stated principal amount of approximately \$575,000,000.

2. Venezuela issued the Bonds and sold them to investors under two contracts called “fiscal agency agreements,” which it executed in 1998 (the “1998 FAA”) and 2001 (the “2001 FAA”). In the 1998 FAA, the 2001 FAA, and the offering documents for each Bond issued pursuant to those contracts, Venezuela unconditionally promised to make regularly scheduled principal and interest payments to holders of the Bonds. The 1998 FAA and the 2001 FAA are each governed by New York law without regard to conflict of laws.

3. Venezuela has defaulted on its obligations under the 1998 FAA, the 2001 FAA, and the Bonds. Beginning in October 2017, Venezuela failed to make required interest payments on the Bonds as those payments became due. And when two of the Bonds – the 13.625% 2018 Bonds, issued under the 1998 FAA, and the 7.00% 2018 Bonds, issued under the 2001 FAA – matured in 2018, Venezuela also failed to pay the principal on those bonds in full.

4. Contrarian Capital Management, L.L.C. (“Contrarian”) acts as investment adviser for certain investment funds and separately managed accounts (the “Contrarian Funds”) that are beneficial holders of the Bonds. The Contrarian Funds are the other plaintiffs named herein. Contrarian does not beneficially hold the Bonds but brings this suit to recover the due and unpaid principal and interest on the Bonds to which the Contrarian Funds are entitled.

PARTIES

5. Contrarian is a limited liability company organized under the laws of the State of Delaware with its principal place of business in Greenwich, Connecticut.

6. Contrarian Capital Fund I, L.P. is a limited partnership organized under the laws of the State of Delaware with its principal place of business in Greenwich, Connecticut.

7. Contrarian Dome du Gouter Master Fund, LP is a limited partnership organized

under the laws of Canada with its principal place of business in Greenwich, Connecticut.

8. Contrarian Capital Senior Secured, L.P. is a limited partnership organized under the laws of the State of Delaware with its principal place of business in Greenwich, Connecticut.

9. Contrarian EM II, LP is a limited partnership organized under the laws of the State of Delaware with its principal place of business in Greenwich, Connecticut.

10. Contrarian Emerging Markets, L.P. is a limited partnership organized under the laws of the State of Delaware with its principal place of business in Greenwich, Connecticut.

11. Boston Patriot Summer St LLC is a limited liability company organized under the laws of the Commonwealth of Massachusetts with its principal place of business in Greenwich, Connecticut.

12. Polonius Holdings, LLC is a limited liability company organized under the laws of the State of Delaware with its principal place of business in Greenwich, Connecticut.

13. E1 SP, a Segregated Account of EMAP SPC is a segregated portfolio company organized under the laws of the Cayman Islands with its principal place of business in Greenwich, Connecticut.

14. Emma 1 Master Fund, L.P. is a limited partnership organized under the laws of the Cayman Islands with its principal place of business in Greenwich, Connecticut.

15. Contrarian Funds, L.L.C. is a limited liability company organized under the laws of Delaware with its principal place of business in Greenwich, Connecticut.

16. Each of the Contrarian Funds is a beneficial owner of Bonds of which the holder of record is Cede & Co., as nominee of the Depository Trust Company. Each Contrarian Fund has been authorized to take any and all actions and to exercise any and all rights and remedies that Cede & Co. is entitled to take as the holder of record of the Bonds.

17. Venezuela is a “foreign state” as defined in 28 U.S.C. § 1603(a).

JURISDICTION AND VENUE

18. This Court has jurisdiction under 28 U.S.C. § 1605 and § 1330 because this is a nonjury civil action against a foreign state that is not entitled to sovereign immunity. In the 1998 FAA, the 2001 FAA, and the terms and conditions of each Bond, Venezuela expressly and irrevocably waived any immunity from suits against it with respect to the Bonds, the contracts under which the Bonds were issued, or any coupon appertaining thereto.

19. In the 1998 FAA and the 2001 FAA, Venezuela waived sovereign immunity for pre-judgment attachment with respect to the Bonds, the contracts under which the Bonds were issued, or any coupon appertaining thereto.

20. Venezuela is also not entitled to sovereign immunity under 28 U.S.C. § 1605(a)(2) because it conducts commercial activity in the United States. Venezuela engaged in a commercial activity carried on in the United States when it marketed the Bonds in the United States, offered them for sale in the United States, allowed them to be traded in the United States, promised to make payments on them in the United States, and directed the actions of its fiscal agents located in the United States. These actions caused direct effects in the United States, including damages to Contrarian, the Contrarian Funds, and other investors from Venezuela’s breach of its payment obligations on the Bonds.

21. This Court has personal jurisdiction over Venezuela because, in the 1998 FAA and the 2001 FAA, Venezuela irrevocably submitted itself to the jurisdiction of this Court for the purpose of any suit arising from the Bonds, the contracts under which the Bonds were issued, or any coupon appertaining thereto. In addition, this Court has personal jurisdiction over Venezuela because it contracted to provide goods and services in this State by promising to make

principal and interest payments on the Bonds in New York, New York.

22. In the 1998 FAA, the 2001 FAA, and the terms and conditions of each Bond, Venezuela appointed the Consul General of Venezuela, or, in the Consul's absence or incapacity, any official of the Consulate of Venezuela, which currently maintains offices at 7 East 51st Street, New York, New York 10022, as its authorized agent for service of process.

23. Venue is proper because, in the 1998 FAA and the 2001 FAA, Venezuela consented to and irrevocably waived any objection to venue in this District. Venue is also proper under 28 U.S.C. § 1391(f)(1) because a substantial part of the events and omissions giving rise to this claim arose in this District. Moreover, in the 1998 FAA and the 2001 FAA, Venezuela waived any defense that this Court would be an inconvenient forum for this action.

FACTUAL ALLEGATIONS

24. The 1998 FAA is a contract entered into as of August 6, 1998 among Venezuela, Banco Central de Venezuela, as official financial agent of Venezuela, and the Chase Manhattan Bank, as fiscal agent. The parties to the 1998 FAA amended that contract in amendments dated January 14, 2004 and September 29, 2004. The 1998 FAA and its amendments are governed by the laws of the State of New York without regard to conflicts of laws principles for all matters other than Venezuela's execution and authorization of that agreement, which are governed by the laws of Venezuela.

25. The 2001 FAA is a contract entered into among Venezuela, Banco Central de Venezuela, as official financial agent of Venezuela, and Deutsche Bank AG and Bankers Trust Company as fiscal agents and principal paying agents. The parties to the 2001 FAA amended that contract with three amendments entered into as of September 19, 2003 ("Amendment No. 1"), March 21, 2005 ("Amendment No. 2"), and December 17, 2007 ("Amendment No. 3"). The

2001 FAA and its amendments are governed by the laws of the State of New York without regard to conflicts of laws principles for all matters other than Venezuela's execution and authorization of that agreement, which are governed by the laws of Venezuela.

26. From time to time, Venezuela has issued unsecured bonds pursuant to the 1998 FAA and the 2001 FAA. The principal amount, interest rate, maturity, and other terms of each bond are set forth in the Bonds themselves and in the offering documents for each Bond. In the 1998 FAA and the 2001 FAA, Venezuela pledged its full faith and credit for the due and punctual payment of all Bonds issued under those agreements.

27. The Contrarian Funds are beneficial owners of the following Bonds issued under the 1998 FAA and the 2001 FAA with the following terms:

| Issue | ISIN | Date Due | FAA | Principal Beneficially Held | Payment dates |
|-----------------------|--------------|-----------------|---------------------------------------|------------------------------------|----------------------|
| 13.625% 2018 Bonds | USP9395PAA95 | 08/15/2018 | 1998 FAA | \$25,319,000 | Feb. 15; Aug. 15 |
| | US922646AT10 | 08/15/2018 | 1998 FAA, as amended on Jan. 14, 2004 | \$20,680,000 | Feb. 15; Aug. 15 |
| 7.00% 2018 Bonds | USP97475AD26 | 12/01/2018 | 2001 FAA and Amend. No. 1 | \$55,814,000 | June 1; Dec. 1 |
| 12.75% 2022 Bonds | USP17625AC16 | 08/23/2022 | 2001 FAA and Amend. Nos. 1-3 | \$63,500,000 | Feb. 23; Aug. 23 |
| 9.00% 2023 Bonds | USP17625AA59 | 05/07/2023 | | \$2,000,000 | Nov. 7; May 7 |
| 8.25% 2024 Bonds | USP97475AP55 | 10/13/2024 | | \$5,500,000 | Oct. 13; Apr. 13 |

| Issue | ISIN | Date Due | FAA | Principal Beneficially Held | Payment dates |
|----------------------|--------------|------------|--|-----------------------------|---------------------|
| 11.75% 2026 Bonds | USP17625AE71 | 10/21/2026 | 2001 FAA and Amend. Nos. 1-3 | \$317,991,000 | Oct. 21; Apr. 21 |
| 9.25% 2028 Bonds | USP17625AB33 | 05/07/2028 | | \$3,000,000 | Nov. 7; May 7 |
| 11.95% 2031 Bonds | USP17625AD98 | 08/05/2031 | | \$75,474,900 | Feb. 5; Aug. 5 |
| 9.375% 2034 Bonds | US922646BL74 | 01/13/2034 | 1998 FAA, amended on Jan. 14, 2004 | \$5,000,000 | Jan. 13; July 13 |

The terms of each Bond held by the Contrarian Funds are set out in each Bond's offering memorandum.

28. Beginning in October 2017, Venezuela stopped making interest payments on the Bonds. Since then, Venezuela has not made any of the interest payments required by the Bonds' terms. Specifically, Venezuela has failed to make the following interest payments:

- i. 13.625% 2018 Bonds: Feb. 15, 2018, Aug. 15, 2018, Feb. 15, 2019, and Aug. 15, 2019
- ii. 7.00% 2018 Bonds: Dec. 1, 2017, June 1, 2018, Dec. 1, 2018, June 1, 2019, and Dec. 1, 2019
- iii. 12.75% 2022 Bonds: Feb. 23, 2018, Aug. 23, 2018, Feb. 23, 2019, and Aug. 23, 2019
- iv. 9.00% 2023 Bonds: Nov. 7, 2017, May 7, 2018, Nov. 7, 2018, May 7, 2019, and Nov. 7, 2019

- v. 8.25% 2024 Bonds: Oct. 13, 2017, Apr. 13, 2018, Oct. 13, 2018, Apr. 13, 2019, and Oct. 13, 2019
- vi. 11.75% 2026 Bonds: Oct. 21, 2017, Apr. 21, 2018, Oct. 21, 2018, Apr. 21, 2019, and Oct. 21, 2019
- vii. 9.25% 2028 Bonds: Nov. 7, 2017, May 7, 2018, Nov. 7, 2018, May 7, 2019, and Nov. 7, 2019
- viii. 11.95% 2031 Bonds: Feb. 5, 2018, Aug. 5, 2018, Feb. 5, 2019, and Aug. 5, 2019
- ix. 9.375% 2034 Bonds: Jan. 13, 2018, July 13, 2018, Jan. 13, 2019, and July 13, 2019

29. Venezuela further failed to pay the entire principal amount on the 13.625% 2018 Bonds when those bonds became due on August 15, 2018.

30. Venezuela also failed to pay the entire principal amount on the 7.00% 2018 Bonds when those bonds became due on December 1, 2018.

31. Under the terms of the 13.625% 2018 Bonds and 7.00% 2018 Bonds, interest continues to accrue on those bonds whether or not their maturity date has passed.

32. Venezuela's failure to pay principal and interest currently owing on the Bonds has continued for more than 30 days. As a result, an Event of Default exists under the terms and conditions of the Bonds.

COUNT I

Breach of Contract on the 13.625% 2018 Bonds

33. All foregoing paragraphs are incorporated by reference herein.

34. The 13.625% 2018 Bonds are valid and enforceable promissory notes executed by

Venezuela.

35. Venezuela failed to make interest payments due to Contrarian and the Contrarian Funds on the 13.625% 2018 Bonds on February 15, 2018, August 15, 2018, February 15, 2019, and August 15, 2019 as required by the terms of those bonds.

36. Venezuela failed to pay Contrarian and the Contrarian Funds the entire principal amount of the 13.625% 2018 Bonds, which became due and payable when those bonds matured on August 15, 2018.

37. Venezuela therefore owes Contrarian and the Contrarian Funds the entire principal amount of their 13.625% 2018 Bonds, plus accrued interest and pre-judgment interest.

COUNT II

Breach of Contract on the 7.00% 2018 Bonds

38. All foregoing paragraphs are incorporated by reference herein.

39. The 7.00% 2018 Bonds are valid and enforceable promissory notes executed by Venezuela.

40. Venezuela failed to make interest payments due to Contrarian and the Contrarian Funds on the 7.00% 2018 Bonds on December 1, 2017, June 1, 2018, December 1, 2018, June 1, 2019, and December 1, 2019, as required by the terms of those bonds.

41. Venezuela failed to pay Contrarian and the Contrarian Funds the entire principal amount of the 7.00% 2018 Bonds, which became due and payable when those bonds matured on December 1, 2018.

42. Venezuela therefore owes Contrarian and the Contrarian Funds the entire principal amount of their 7.00% 2018 Bonds, plus accrued interest and pre-judgment interest.

COUNT III

Breach of Contract on the 12.75% 2022 Bonds

43. All foregoing paragraphs are incorporated by reference herein.
44. The 12.75% 2022 Bonds are valid and enforceable promissory notes executed by Venezuela.
45. Venezuela failed to make interest payments due to Contrarian and the Contrarian Funds on the 12.75% 2022 Bonds on February 23, 2018, August 23, 2018, February 23, 2019, and August 23, 2019, as required by the terms of those bonds.
46. Venezuela therefore owes Contrarian and the Contrarian Funds the accrued unpaid interest on their 12.75% 2022 Bonds, plus pre-judgment interest.

COUNT IV

Breach of Contract on the 9.00% 2023 Bonds

47. All foregoing paragraphs are incorporated by reference herein.
48. The 9.00% 2023 Bonds are valid and enforceable promissory notes executed by Venezuela.
49. Venezuela failed to make interest payments due to Contrarian and the Contrarian Funds on the 9.00% 2023 Bonds on November 7, 2017, May 7, 2018, November 7, 2018, May 7, 2019, and November 7, 2019, as required by the terms of those bonds.
50. Venezuela therefore owes Contrarian and the Contrarian Funds the accrued unpaid interest on their 9.00% 2023 Bonds, plus pre-judgment interest.

COUNT V

Breach of Contract on the 8.25% 2024 Bonds

51. All foregoing paragraphs are incorporated by reference herein.
52. The 8.25% 2024 Bonds are valid and enforceable promissory notes executed by

Venezuela.

53. Venezuela failed to make interest payments due to Contrarian and the Contrarian Funds on the 8.25% 2024 Bonds on October 13, 2017, April 13, 2018, October 13, 2018, April 13, 2019, and October 13, 2019, as required by the terms of those bonds.

54. Venezuela therefore owes Contrarian and the Contrarian Funds the accrued unpaid interest on their 8.25% 2024 Bonds, plus pre-judgment interest.

COUNT VI

Breach of Contract on the 11.75% 2026 Bonds

55. All foregoing paragraphs are incorporated by reference herein.

56. The 11.75% 2026 Bonds are valid and enforceable promissory notes executed by Venezuela.

57. Venezuela failed to make interest payments due to Contrarian and the Contrarian Funds on the 11.75% 2026 Bonds on October 21, 2017, April 21, 2018, October 21, 2018, April 21, 2019, and October 21, 2019, as required by the terms of those bonds.

58. Venezuela therefore owes Contrarian and the Contrarian Funds the accrued unpaid interest on their 11.75% 2026 Bonds, plus pre-judgment interest.

COUNT VII

Breach of Contract on the 9.25% 2028 Bonds

59. All foregoing paragraphs are incorporated by reference herein.

60. The 9.25% 2028 Bonds are valid and enforceable promissory notes executed by Venezuela.

61. Venezuela failed to make interest payments due to Contrarian and the Contrarian Funds on the 9.25% 2028 Bonds on November 7, 2017, May 7, 2018, November 7, 2018, May 7,

2019, and November 7, 2019, as required by the terms of those bonds.

62. Venezuela therefore owes Contrarian and the Contrarian Funds the accrued unpaid interest on their 9.25% 2028 Bonds, plus pre-judgment interest.

COUNT VIII

Breach of Contract on the 11.95% 2031 Bonds

63. All foregoing paragraphs are incorporated by reference herein.

64. The 11.95% 2031 Bonds are valid and enforceable promissory notes executed by Venezuela.

65. Venezuela failed to make interest payments due to Contrarian and the Contrarian Funds on the 11.95% 2031 Bonds on February 5, 2018, August 5, 2018, February 5, 2019, and August 5, 2019, as required by the terms of those bonds.

66. Venezuela therefore owes Contrarian and the Contrarian Funds the accrued unpaid interest on their 11.95% 2031 Bonds, plus pre-judgment interest.

COUNT IX

Breach of Contract on the 9.375% 2034 Bonds

67. All foregoing paragraphs are incorporated by reference herein.

68. The 9.375% 2034 Bonds are valid and enforceable promissory notes executed by Venezuela.

69. Venezuela failed to make interest payments due to Contrarian and the Contrarian Funds on the 9.375% 2034 Bonds on January 13, 2018, July 13, 2018, January 13, 2019, and July 13, 2019, as required by the terms of those bonds.

70. Venezuela therefore owes Contrarian and the Contrarian Funds the accrued unpaid interest on their 9.375% 2034 Bonds, plus pre-judgment interest.

PRAYER FOR RELIEF

WHEREFORE Contrarian and the Contrarian Funds respectfully request that the Court enter judgment in their favor and against Venezuela as follows:

A. Declaring that the 1998 FAA, the 2001 FAA, and each Bond is an enforceable, valid, and unconditional obligation owed by Venezuela;

B. Declaring that Venezuela has breached the 1998 FAA, the 2001 FAA, and the terms of each Bond, by failing to pay Contrarian and the Contrarian Funds the contractually required interest payments and repayment of principal;

C. Awarding damages to Contrarian and the Contrarian Funds in an amount to be proven at trial, but in no event less than \$285,926,000;

D. Awarding Contrarian and the Contrarian Funds their fees and costs as permitted by law;

E. Awarding Contrarian and the Contrarian Funds pre-judgment and post-judgment interest; and

F. Awarding Contrarian and the Contrarian Funds such other and further relief as the Court deems just and equitable.

January 7, 2020
New York, New York

Respectfully submitted.

/s/ Steven F. Molo

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